

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Rec'd (H)	3-29-83
Served	
Entered	3-30-83
Filed	
L/D	
BY	JTS

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: UNIVERSAL CITY STUDIOS, INC., : 82 Civ. 4259 (RWS)
: :
: plaintiff, : RESPONSES AND OBJECTIONS OF
: : DEFENDANT, NINTENDO OF AMERICA,
-against- : INC., TO PLAINTIFF'S
: : FOURTH SET OF INTERROGATORIES
NINTENDO CO., LTD. and : AND THIRD REQUEST FOR
NINTENDO OF AMERICA, INC., : PRODUCTION OF DOCUMENTS
: :
Defendants. :
: :
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Defendant Nintendo of America, Inc. ("Nintendo America") hereby responds to the fourth set of interrogatories and third request for production of documents of the plaintiff, Universal City Studios, Inc., as follows:

Interrogatory No. 32

Describe the material terms of the licensing agreement between Coleco Industries Inc. ("Coleco") and Nintendo Co. Ltd. ("Nintendo Japan") and Nintendo of America Inc. ("Nintendo America") which Universal allegedly caused Coleco to breach as alleged in paragraph 80 of the Proposed Amended Answer and Counterclaims of Nintendo America (hereinafter "Amended Answer and Counterclaims of Nintendo America").

Response to Interrogatory No. 32

The material written terms of the licensing agreement in issue are paragraphs 12 and 13 of the agreement dated February 1,

Response to Interrogatory No. 36

See response to Interrogatory No. 35

Interrogatory No. 37

Identify all market and consumer surveys and studies undertaken by or on behalf of defendants regarding the name, character or story KING KONG, or the game KING KONG manufactured by Tiger Electronics, Inc.

Response to Interrogatory No. 37

Nintendo's attorneys in this litigation and individuals working directly for Nintendo's attorneys in this litigation have conducted such "market and consumer surveys and studies" which Nintendo declines to disclose pursuant to Fed. R. Civ. P. 26(b)(4) and on grounds of the attorney's work product privilege.

Interrogatory No. 38

Identify all persons defendants expect to call at trial as expert witnesses and state (a) the subject matter on which the expert is expected to testify; (b) the substance of the facts and opinions to which the expert is expected to testify; and (c) a summary of the grounds of each opinion.

Response to Interrogatory No. 38

Nintendo has not yet determined whether it will call an

expert witness to testify at trial and, therefore, cannot respond to this interrogatory at this time.

Interrogatory No. 39

Identify the mailgram sent on or about January 5, 1983 which is referred to in the letter of Herbert S. Falk to Nintendo America dated January 20, 1983, a copy of which is annexed hereto as Exhibit A, and identify to whom said mailgram was sent and why.

Response to Interrogatory No. 39

A copy of the mailgram sent to Bates Nitewear is attached. Substantially identical mailgrams were sent to other Nintendo licensees in order to respond to letters sent to Nintendo's licensees by counsel for Universal with respect to Donkey Kong and King Kong.

Interrogatory No. 40

Describe in detail the audio-visual material which defendants maintain is "virtually identical to the audio-video work embodied in Nintendo America's copyrighted Donkey Kong game" as alleged in paragraph 66 of the Amended Answer and Counterclaims of Nintendo America.

Response to Interrogatory No. 40

The plaintiff can view the subject audio-visual material itself by operating the King Kong game manufactured by Tiger Electronics, Inc. under license from Universal.